IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 3443 OF 2007

Gajanan Sahakari Sakhar Karkhana.... Petitioner

versus

Sou. Indubai Dyanadev Patil
since deceased through L.R.
Gnanoba Vithoba Patil ..... Respondent.

Mr. J.Shekhar i/b. J. Shekhar & Co. for the petitioner.
Shri S.G.Deshmukh for respsondent.

CORAM; A.P. DESHPANDE, J.
DATED; 01ST AUGUST, 2007

P.C.;

1. The present petitioner is the original defendant. The respondent filed a money suit based on accounts and claimed a decree in the sum of Rs.5,19,850.52/-. The suit was filed in the year 1993. The plaintiff's evidence commenced in the year 1994 and from the year 1994 to 1999 the proceedings was dragged on as the present petitioner did not instruct his advocate in the matter and nor did the petitioner participate in the proceedings before the trial court. Thus the suit came to be decreed on 28-12-1999. Thereafter execution proceedings came to be filed and when notice was served on the petitioner in the Darkhast

proceeding, the petitioner moved an application for setting aside the ex-parte decree. Despite the fact that the application was belatedly filed, beyond the period of limitation, no application for condonation of delay was filed. The office took an objection about failure on the part of the petiitoner to file an application for condonation of delay and did not register the application for setting aside the ex-parte decree. Yet again belatedly the petitioner moved an application for condonation of delay, and the reasons set out therein was that the counsel for the petitioner did not intimate the petitioner about the progress in the suit and the dates therein. The ex-parte decree if perused, is indicative of the efforts made by the counsel to adjourn the matter for a period of four years, on one pretext or the other. He did cross examine the witnesses of the plaintiff. It does appear from the record that the present petitioner, which is a sugar factory, has not been deligent in defending the suit. The trial court has rejected the application seeking condonation of delay, by recording relevant circumstances, which goes to demonstrate that the petitioner has been guilty of latches.

2. Perused the order. The trial court is justified in the facts of the present case, in reaching the

conclusion that the petitioner has failed to assign sufficient cause for seeking condonation of delay. Perused the order, The same does not suffer from any illegality much less patent or manifest. Hence no interference in exercise of writ jurisdiction is called for. Petition is summarily dismissed.

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